

ROBERT J. HARRISON
v.
ACTING MINNEAPOLIS AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 91-46-A

Decided August 13, 1991

Appeal from a denial of an Indian Business Development Program grant.

Affirmed.

1. Indians: Financial Matters: Financial Assistance

To be eligible for a grant under the Indian Business Development program, an Indian-owned economic enterprise must be located on or near an Indian reservation.

APPEARANCES: Robert J. Harrison, pro se.

OPINION BY ADMINISTRATIVE JUDGE VOGT

Appellant Robert J. Harrison seeks review of an August 15, 1990, decision of the Acting Minneapolis Area Director, Bureau of Indian Affairs (Area Director; BIA), denying appellant's application for a grant under the Indian Business Development Program (IBDP). For the reasons discussed below, the Board affirms the Area Director's decision.

Background

Appellant is an enrolled member of the Standing Rock Sioux Tribe. On May 7, 1990, he applied at the Standing Rock Agency, BIA, for an IBDP grant in the amount of \$150,000, to be used to purchase an art gallery in Waukegan, Illinois or Dundee, Illinois. ^{1/} The application was transmitted to the Minneapolis Area Office, where it was received on July 27, 1990.

On August 15, 1990, the Area Director denied the application, stating in part:

^{1/} Appellant's formal application indicates that the business is located in Waukegan. Other documents with his application indicate that it is located in Dundee.

Our disapproval is based on the fact that the business is not located on or near an Indian reservation. The intent of the Indian Business Development Grant program is to provide equity capital for Indian entrepreneurs to establish and increase profitmaking business ventures and employment on or near federal Indian reservations.

It would be extremely difficult to justify awarding a grant in a state where there are no Indian reservations. We are continually under scrutiny from members of Congress who wish to ensure that the awarded grants are used for projects on or near an Indian reservation which will impact the reservation economy. A business located in Illinois is so far from a reservation it could not conceivably provide significant employment or business opportunities for Indians.

(Area Director's Aug. 15, 1990, Decision at 1).

As a result of incorrect appeal information given in the decision, appellant filed his notice of appeal with the Area Director. By memorandum of February 1, 1991, the Area Director transmitted the appeal to the Board. The appeal was docketed on February 4, 1991, and a briefing schedule established. No briefs were filed.

Discussion and Conclusions

Appellant states that his gallery will attempt to maintain an inventory of at least 50 percent American Indian artwork, handmade jewelry, and handmade crafts. He contends that "the socioeconomic level on a reservation is insufficient for the survival of a business of this nature;" that "[a] viable way to enhance the sale of these products is to move them to areas where consumers with financial ability are located;" and that his gallery will offer Indian artisans the opportunity to remain on their reservations and bring money to the reservations through sale of their products in his gallery (Notice of Appeal at 1). Further, appellant contends, his gallery "is located within very close proximity to the state of Wisconsin which is near North and South Dakota all of which have Indian reservations which can quite readily take advantage of the opportunity which [the gallery] is trying to provide." Id.

The IBDP program is authorized by Title IV of the Indian Financing Act of 1974, 25 U.S.C. §§ 1521-1524 (1988). 25 U.S.C. § 1521 (1988) provides that the purpose of the program is "to simulate and increase Indian entrepreneurship and employment by providing equity capital through nonreimbursable grants * * * to Indians and Indian tribes to establish and expand profit-making Indian-owned economic enterprises on or near reservations." Regulations implementing the IBDP program appear in 25 CFR Part 286. 25 CFR 286.7 provides:

To be eligible for a grant an economic enterprise must be located on an Indian reservation or located where it makes or

will make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expending a portion of its income for materials or services on the reservation.

The regulations do not define "near" or "nearby." 2/ Nevertheless, it seems apparent that, under no generally accepted understanding of those terms, could Waukegan or Dundee, Illinois, be considered "near" any Indian reservation in Wisconsin, North Dakota or South Dakota. The Wisconsin reservation closest to Waukegan and Dundee appears to be the Oneida Reservation, which is about 150 miles away.

Further, 25 CFR 286.7 indicates that a grant applicant must show that he will provide employment and economic benefits to tribal members residing on a nearby reservation. If appellant were to claim eligibility for a grant by reason of his proximity to the Oneida Reservation, he would have to show how his business would benefit the residents of that reservation. Instead, he makes only the most general assertions that his business will benefit Indians in Wisconsin, North Dakota, and South Dakota.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Acting Minneapolis Area Director's August 15, 1990, decision is affirmed

Anita Vogt
Administrative Judge

I concur:

Kathryn A. Lynn
Chief Administrative Judge

2/ Some guidance is perhaps provided in 25 CFR 286.8, concerning funding priorities. First priority is given to on-reservation enterprises meeting certain requirements. Second priority is given to "projects located in the immediate vicinity of a reservation" which meet those same requirements.